

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAVID W. HOWELL,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-07-1443-M
)	
BILL WINCHESTER, et al.,)	
)	
Defendants.)	

ORDER

On February 15, 2008, United States Magistrate Judge Gary Purcell issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging various constitutional deprivations concerning plaintiff's incarceration at the Dick Conner Correctional Facility. The Magistrate Judge recommended the Court dismiss with prejudice pursuant to 28 U.S.C. § 1915A(b) all claims in counts one and two of the Amended Complaint against defendants Bill Winchester ("Winchester"), John Doe VonHagel ("VonHagel"), Wendell Vencl ("Vencl"), Steve Hobson ("Hobson"), Scott Savage ("Savage"), and "John Doe" or "John/Jane Doe", except for plaintiff's claim in count one against defendants for deliberate indifference to plaintiff's serious medical needs due to plaintiff's exposure to a detainee with active, untreated tuberculosis disease. The Magistrate Judge further recommended the Court dismiss with prejudice pursuant to 28 U.S.C. § 1915A(b) all of plaintiff's claims concerning 42 U.S.C. § 1983 in counts three and five against defendants Cathy Stocker ("Stocker"), Brandi Robertson ("Robertson") and Sharon Melrose ("Melrose") on the grounds of immunity.

In addition, the Magistrate Judge recommended the Court dismiss with prejudice plaintiff's claims against defendants Winchester and VonHagel in count three for negligence, and that the Court dismiss with prejudice plaintiff's claims in counts four and five against defendants "Jane Doe

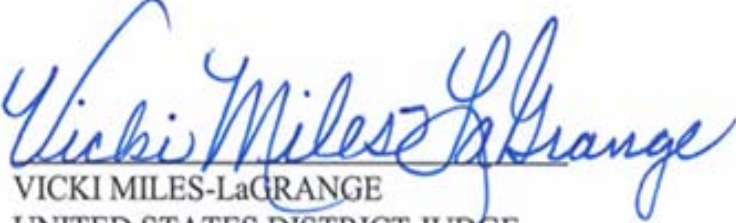
... Warden at Vienna C.C. Illinois,” Daly, “Jane/John Doe Meijer,” “John Doe Records Dept. Supervisor/B of I at Logan C.C. Illinois,” “John Doe Records Dept., B of I Supervisor at Western Il. C.C.,” Huntley, Richards and Walker for lack of *in personam* jurisdiction. Finally, the Magistrate Judge recommends the Court dismiss without prejudice plaintiff’s 42 U.S.C. § 1983 claims for alleged unconstitutional convictions and sentences in Garfield County District Court as the claims are barred by *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

The parties were advised of their right to object to the Report and Recommendation by March 6, 2008. A review of the file reveals no objection has been filed.

Upon de novo review, the Court:

- (1) ADOPTS the Report and Recommendation issued by the Magistrate Judge on February 15, 2008;
- (2) DISMISSES with prejudice pursuant to 28 U.S.C. § 1915 A(b) all claims in counts one and two of the Amended Complaint against defendants Winchester, VonHagel, Vencl, Hobson, Savage, and “John Doe” or “John/Jane Doe”, except for plaintiff’s claim in count one against defendants for deliberate indifference to plaintiff’s serious medical needs due to plaintiff’s exposure to a detainee with active, untreated tuberculosis disease.
- (3) DISMISSES with prejudice pursuant to 28 U.S.C. § 1915A(b) all of plaintiff’s claims concerning 42 U.S.C. § 1983 in counts three and five against defendants Stocker, Robertson and Melrose on the grounds of immunity.
- (4) DISMISSES with prejudice plaintiff’s claims against defendants Winchester and VonHagel in count three for negligence.
- (5) DISMISSES with prejudice plaintiff’s claims in counts four and five against defendants “Jane Doe ... Warden at Vienna C.C. Illinois,” Daly, “Jane/John Doe Meijer,” “John Doe Records Dept. Supervisor/B of I at Logan C.C. Illinois,” “John Doe Records Dept., B of I Supervisor at Western Il. C.C.,” Huntley, Richards and Walker for lack of *in personam* jurisdiction.
- (6) DISMISSES without prejudice plaintiff’s 42 U.S.C. § 1983 claims for alleged unconstitutional convictions and sentences in Garfield County District Court.

IT IS SO ORDERED this 13th day of March, 2008.



VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE